



PATENT

Docket No. **1232-4408US1**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Ichiro ONUKI

Group Art Unit: 2615

Serial No. : 10/050,912

Examiner: Tuan V. HO

Filed : January 22, 2002

For : IMAGE SENSING APPARATUS AND METHOD CAPABLE OF MERGING FUNCTION FOR OBTAINING HIGH-PRECISION IMAGE BY SYNTHESIZING IMAGES AND IMAGE STABILIZATION FUNCTION

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Kindly consider the following election in response to Restriction Requirement mailed on August 23, 2005. Written Statement Of The Substance Of The Interview Pursuant To MPEP § 713.04 is concurrently enclosed herewith.

ELECTION:

The Examiner, in the Office Action mailed on August 23, 2005, required restriction of the claims to one of the following groups:

- I. Claims 39-46, drawn to an image sensing apparatus; and
- II. Claims 47-49 drawn to an image synthesis apparatus.

The Applicant herein makes a provisional election and respectfully traverse the restriction requirement.

There are two criteria for making a proper Restriction Requirement between patentably distinct inventions:

- (1) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or

distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(2) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).

In the Restriction Requirement, the Examiner has identified two distinct inventions that allegedly require two different fields of search; 1) class 348, subclass 222.1 and 2) class 348, subclass 239. However, MPEP § 808.02 states that a different field of search is necessary “where it is necessary to search for one of the distinct subjects in places where no pertinent art to the other subjects exist.” Given the related subject matter in the classes and subclasses noted above, the Applicant contend that separate searches for Groups I-II claims are not necessary for the following reasons.

First, it appears unlikely that the Examiner, during the performance of separate searches for each of the Groups (I-II), would not come across ample pertinent art for all the claims in the above-identified Groups (I-II). For example, the subject matter in claims 39-46 would most likely be found in subclass 239. Second, the entire search area for all the claims includes only one (1) class and two (2) subclasses. Third, given the relevance of the claims to all the subject matter in the above classifications and the size of the search area, it would seem more efficient to search all the claims together. The Applicants’ position is clearly supported by MPEP §803. MPEP § 803 states, in part, that “if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.”

Accordingly, Applicant respectfully submits that the subject matter of Groups I-II claims can be searched together without imposing a serious burden on the Examiner. Therefore, withdrawal of the restriction requirement is respectfully solicited.

However, to fulfill Applicant’s duty to reply to the Restriction Requirement, the

However, to fulfill Applicant's duty to reply to the Restriction Requirement, the Applicant provisionally elect Group I, claims 39-46. Applicant reserves the right to file divisional applications based on any non-elected claims.

AUTHORIZATIONS

The Commissioner is also hereby authorized to charge any additional fees which may be required for the timely consideration of this response, or credit any overpayment to Deposit Account No. 13-4500, Order No. 1232-4408US1.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Date: 09/22/05

By:

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WRITTEN STATEMENT OF THE SUBSTANCE OF THE INTERVIEW

PURSUANT TO MPEP § 713.04

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Interview Summary mailed with Restriction Requirement in August 23, 2005, the following written statement pursuant to MPEP §713.04 is submitted concerning the substance of the telephonic interview between the Examiner and the undersigned on July 28, 2005.

On July 28, 2005, Examiner Ho contacted the undersigned regarding, a restriction requirement in the above-identified application. During the interview, the Examiner requested an oral response to a restriction requirement. However, it was agreed that the restriction requirement would be mailed and a timely response filed in due course.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Written Statement to Deposit Account No. 13-4500, Order No. 1232-4408US1.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 1232-4408US1.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: 09/22/05

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